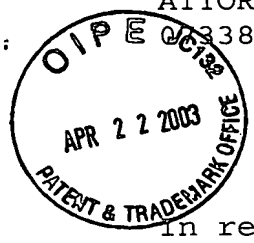


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ATTORNEY DOCKET NO.
03388.0110

PATENT APPLICATION
09/199,723



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Graham W. Glass
Serial No.: 09/199,723
Filing Date: November 25, 1998
Group Art Unit: 2126
Examiner: Sue X. Lao
Title: METHOD OF FORWARDING MESSAGES TO
 MOBILE OBJECTS IN A COMPUTER NETWORK

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Technology Center 2100

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

APPEAL BRIEF

Applicant has appealed to the Board of Patent Appeals and Interferences from the decision of the Examiner mailed September, 4, 2002, finally rejecting Claims 1-7. Applicant filed a Notice of Appeal on February 24, 2003. Applicant respectfully submits herewith their brief on appeal, in triplicate, with a statutory fee of \$320.00.

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REAL PARTY IN INTEREST

The present application was assigned to Objectspace, Inc., a Delaware corporation, as indicated by an assignment from the inventors recorded on November 25, 1998 in the Assignment Records of the United States Patent and Trademark Office at Reel 9615, Frames 0983-0985. The present application was subsequently assigned by Objectspace, Inc. to Recursion Software, Inc., a Texas corporation, as indicated by an assignment recorded on February 22, 2002 in the Assignment Records of the United States Patent and Trademark Office at Reel 12587, Frames 0702-0705.

RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

Claims 1-7 stand rejected pursuant to a Final Action mailed September 4, 2002. Claims 1-7 are all presented for appeal.

STATUS OF AMENDMENTS

A Response to Examiner's Final Action was filed on November 4, 2002 in response to the Final Action mailed September 4, 2002. No amendments were made to the claims. The Examiner issued an Advisory Action dated January 23, 2003 which stated that the Response to Examiner's Final Action was considered but was not persuasive to overcome the rejection of the claims. A Notice of Appeal was filed on February 24, 2003.

SUMMARY OF INVENTION

The present invention involves a method for forwarding messages to mobile objects in a computer environment. A first object (802), upon receiving a move indication (806), begins to move from a current position (804) to a new position (814) in the computer network. An old version (816) of the first object (802) is retained at the current position (804). A forwarder object (822) is created at the current position (804) by the old version (816) upon establishment of a new object (818) at the new position (814). A status update message (820) is created upon establishing the new object (818) at the new position (814). The status update message (820) is received by the old version (816) and provided to the forwarder object (822). The status update message (820) includes information pertaining to the new object (818) and the new location (814). When a message is received at the current position (804) and destined for the first object (802), the message is routed by the forwarder object (822) to where the first object (802) is now located, namely the new object (818) at the new position (814).

STATEMENT OF ISSUES

1. Did the Examiner err in concluding that Claims 1-7 were obvious under 35 U.S.C. §103(a) over Black, et al. in view of Shakib, et al.?

GROUPING OF CLAIMS

Applicant respectfully requests that Claims 1-7 be grouped to stand or fall together according to 37 C.F.R. § 1.192(c)(7).

ARGUMENT

1. Claims 1-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Black, et al. in view of Shakib, et al. According to M.P.E.P. §2143, to establish a prima facie case of obviousness, three criteria must be met. First, there must be some suggestion or motivation to combine the references. Second, there must be a reasonable expectation of success. Third, the prior art combination of references must teach or suggest all the claim limitations. The Examiner has not established that any criteria for a prima facie case of obviousness has been met in this instance.

First, there is no suggestion or motivation in the Black, et al. or the Shakib, et al. patents to combine them as proposed by the Examiner. The Black, et al. patent is directed to locating mobile objects in a distributed computer system. The Shakib, et al. patent is directed to data replication where a one way unacknowledged message is broadcast to locations where data has been copied to whenever data has been modified at a particular location. Thus, none of the cited patents are related to any common subject matter. The Examiner has not cited any language within the Black, et al. or the Shakib, et al. patents that would suggest any capability for them to be combined. In fact, no reason was provided by the Examiner for combining the references as has been proposed. The Examiner has merely provided conclusory "it would have been obvious to combine" statements using improper hindsight reconstruction without any support for such conclusory statements from any of the cited references. A statement that modifications of the prior art to meet the claimed invention would have been well within the ordinary skill of the art at the time the claimed invention was made because the references relied upon teach that all aspects of the claimed invention were individually known in the art is

not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. See M.P.E.P. 2143.01. Since the Examiner has not provided any reasoning, let alone objective reasoning, the burden to establish the first criteria of a prima facie case of obviousness has not been met.

Moreover, the proposed modification changes the principle of operation of the prior art being modified. The Black, et al. patent specifically provides a technique to locate objects in a distributed network encompassing a large number of nodes. The Shakib, et al. patent merely sends out unacknowledged messages from a local system to remote systems having a copy of data whenever the data has been locally modified. The local system in the Shakib, et al. patent knows which systems have copies of the data that has been modified. The Black, et al. patent must locate a particular mobile object before information can be sent to it. Thus, the principle of operation of both of the Black, et al. and Shakib, et al. patents would be improperly changed by incorporating their respective teachings. The Examiner has yet to explain how the Shakib, et al. patent can be combined with the Black, et al. patent in view of such different functionalities. Therefore, Applicant respectfully submits that the Examiner has failed to establish the first criteria for a prima facie case of obviousness.

Second, a reasonable expectation of success has not been shown by the Examiner. The combination of the Black, et al. patent with the Shakib, et al. patent would not be capable of performing the operation required by the claimed invention. There is no showing by the Examiner that the unacknowledged messaging scheme of the Shakib, et al. patent in response to locally modified data would be able to operate in the mobile object location scheme of the Black, et al. patent. There has

also been no showing that the combined references would even be able to perform the forwarding of messages destined for an object at one location which has moved to another location as required by the claimed invention. The proposed combination attempts to combine incompatible processing techniques that have not been shown to be capable of operating according to any degree of predictability. The Examiner, without the improper hindsight look through the claimed invention, has not addressed how the proposed combination of the Black, et al. patent and the Shakib, et al. patent would have any success whatsoever let alone a reasonable expectation of success. Therefore, Applicant respectfully submits that the Examiner has failed to establish the second criteria for a prima facie case of obviousness.

Third, the Examiner has not shown that the proposed Black, et al. - Shakib, et al. combination teaches or suggests all of the claim limitations. For example, Independent Claim 1 provides for retaining an old version of the first object at the current position and creating a forwarder object from the old version of the first object at the current position in response to establishing the first object at the new position. By contrast, the Black, et al. patent merely discloses maintaining a storage of a forwarding address and a time that an object has moved with no mention of the use of a forwarder object. Additionally, the Black, et al. patent provides no disclosure with respect to retaining an old version of the first object at the current location or creating a forwarder object from the old version of the first object at the current location as provided by the claimed invention. The Examiner readily admits that the Black, et al. patent does not retain an old version of the object or the creation of a forwarder object from the retained old version of the object. The Shakib, et al. patent makes no mention of creating a forwarder

object for an object that has moved to a new location or retaining an old version of an object at a current location. The Shakib, et al. patent merely discloses providing a broadcast message upon a change in data that is sent to all locations where a copy of the data has been replicated and is being shared. The structure that would result from placing the data replication and update technique of the Shakib, et al. patent into the system of the Black, et al. patent for locating mobile objects in a distributed computer system would still lack a capability to retain an old version of a first object at a current location that has moved to a new location and the creation of a forwarder object at the current location from the retained old version of the first object as provided by the claimed invention. Thus, the Examiner has failed to show how the proposed combination of the Black, et al. patent and the Shakib, et al. patent teaches each and every limitation of the claims. Without showing how each limitation of each claim is shown in the prior art, there is no possibility to meet the third criteria of a prima facie case of obviousness. Therefore, Applicant respectfully submits that the Examiner has failed to establish the third criteria for a prima facie case of obviousness.

Applicant respectfully requests the Examiner to provide one or more combinable references that support the rejections of the claims. Applicant also respectfully requests the Examiner to show where each and every limitation of each and every claim is taught or suggested by the prior art. With no other supporting reference that is combinable with the Black, et al. patent, all claim limitations have not been taught or suggested by the Examiner's currently proposed combination. The Examiner has not cited any language within the Black, et al. patent or the Shakib, et al. patent, either alone or in combination, that would suggest the desirability of making the

claimed invention or providing any motivation to do so. Subjective conclusions of obviousness are not sufficient to establish a prima facie case of obviousness without some objective reason to modify and combine the prior art references. Therefore, Applicant respectfully submits that Claims 1-7 are patentably distinct from the proposed Black, et al. - Shakib, et al. combination.

CONCLUSION

Applicant has clearly demonstrated that the present invention as claimed is clearly distinguishable over all the art cited of record, either alone or in combination, and satisfies all requirements under 35 U.S.C. §§101, 102, and 103, and 112. Therefore, Applicant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

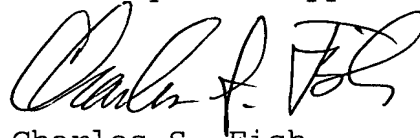
Attached herewith is a check made payable to the "Commissioner of Patents and Trademarks" in an amount of \$320.00 to satisfy the appeal brief filing fee of 37 C.F.R. §1.17(c).

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant



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April 22, 2003

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APPENDIX A

(Previously Amended) A method of forwarding messages

mobile objects in a computer network, comprising steps of:

moving a first object from a current position to a new position in the computer network;

retaining an old version of the first object at the current position;

creating a forwarder object from the old version of the first object at the current position in response to establishing the first object at the new position;

placing information with respect to the new position at the forwarder object;

receiving a message at the current position destined for the first object from a second object;

routing the message through the forwarder object to the first object at the new position.

2. The method of Claim 1, further comprising steps of:

creating a reply message at the first object, the reply message including information with respect to the new position;

sending the reply message directly to the second object.

3. The method of Claim 2, further comprising steps of:

creating a subsequent message at the second object, the subsequent message being destined for the first object;

sending the subsequent message to the first object at the new position received in the reply message.

4. The method of Claim 3, wherein the subsequent message is sent directly to the first object without routing through the current position or the forwarder object.

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5. The method of Claim 1, wherein the forwarder is destroyed after routing the message to the first object.

6. The method of Claim 1, wherein the current position and the new position are host address and port numbers corresponding to one or more computing devices within the computer network.

7. The method of Claim 1, wherein the forwarder object is given a same lifespan as the first object.



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Group Art Unit 2151
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Assistant Commissioner for Patents
Washington, D.C. 20231

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Dear Sir:

CERTIFICATE OF MAILING BY EXPRESS MAIL

I hereby certify that the attached Appeal Brief with check is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on this 22nd day of April 2003, addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Willie Jiles
Willie Jiles

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